

FILED

DEC 02 2019

United States District Court
Eastern District of North Carolina
Western Division

PETER A. MOORE, JR., CLERK
US DISTRICT COURT, EDNC
BY _____ DEP CLK

Case No. 5:19-CT-3358

(To be filled out by Clerk's Office only)

LUIS Antonio Rosado JR.

Inmate Number 1087392

(In the space above enter the full name(s) of the plaintiff(s).)

-against-

COMPLAINT

(Pro Se Prisoner)

Mr. Barnes Mr. Riggs

Jury Demand?

☒ Yes

☐ No

Mr. Flemmings Mr. Joyner

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Section IV. Do not include addresses here.)

NOTICE

Federal Rule of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

I. COMPLAINT

Indicate below the federal legal basis for your claim, if known. This form is designed primarily for pro se prisoners challenging the constitutionality of their conditions of confinement, claims which are often brought under 42 U.S.C. § 1983 (against state, county, or municipal defendants) or in a "Bivens" action (against federal defendants).

- ☒ 42 U.S.C. § 1983 (state, county, or municipal defendants)
- ☐ Action under *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971) (federal defendants)
- ☐ Action under Federal Tort Claims Act (United States is the proper defendant; must have presented claim in writing to the appropriate Federal agency and received a notice of final denial of the claim pursuant to 28 U.S.C. § 2401(b))

II. PLAINTIFF INFORMATION

Luis Antonio Rosado Jr.

Name

1087392

Prisoner ID #

Maury Correctional Institution

Place of Detention

2568 Moore Rouse Rd.

Institutional Address

Hokeston

City

NC

State

28538

Zip Code

III. PRISONER STATUS

Indicate whether you are a prisoner or other confined person as follows:

- ☐ Pretrial detainee ☐ State ☐ Federal
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☒ Convicted and sentenced state prisoner
- ☐ Convicted and sentenced federal prisoner

IV. DEFENDANT(S) INFORMATION

Please list the following information for each defendant. If the correct information is not provided, it could result in the delay or prevention of service. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant 1: Mr. Flemmings
Name
Superintendent
Current Job Title
2568 Moore Rouse Rd.
Current Work Address
Hookerton NC 28538
City State Zip Code
Capacity in which being sued: ☐ Individual ☐ Official ☒ Both

Defendant 2: ~~Mr.~~ Mr. Riggs
Name
Unit manager
Current Job Title
2568 Moore Rouse Rd.
Current Work Address
Hookerton NC 28538
City State Zip Code
Capacity in which being sued: ☐ Individual ☐ Official ☒ Both

Defendant(s) Continued

Defendant 3: Mr. Barnes
Name
Sargent
Current Job Title
2568 Moore Rouse Rd.
Current Work Address
Hookerton Nc 28538
City State Zip Code

Capacity in which being sued: ☐ Individual ☐ Official ☒ Both

Defendant 4: Mr. Joyner
Name
Sargent
Current Job Title
2568 Moore Rouse Rd.
Current Work Address
Hookerton Nc 28538
City State Zip Code

Capacity in which being sued: ☐ Individual ☐ Official ☒ Both

V. STATEMENT OF CLAIM

Place(s) of occurrence: At Maury Correctional Lower Red staff Bathroom.

Date(s) of occurrence: 12/18/18 - 12/21/18

State which of your federal constitutional or federal statutory rights have been violated:

State here briefly the FACTS that support your case. Describe how each defendant was personally involved in the alleged wrongful actions, state whether you were physically injured as a result of those actions, and if so, state your injury and what medical attention was provided to you.

FACTS:

Who
did what to
you?

The staff members who partook in the Assault and torture was Sgt. Barnes, Sgt. Joyner, Unit Manager Riggs, Officer Robinson, and Officer Johnson. Those are the staff members who assaulted me and tortured me ~~for~~ on 12-18-2018 around 3:00pm - 4:00pm. at around 4:00pm - 6:00pm an officer(s) was told to pack my Property and Bring it down from Upper Red unit F Block Cell 27 to Lower Red where the officer(s) failed to do so or file a Dc-160 and misplaced certain items of my Property.

What
happened
to you?

On 12-18-2018 I was being escorted by the officers to Lower Red Bathroom and was punched, kicked and sprayed numerous times by the officers. After the assault/torture I did Request to see medical and was denied due to the fact Sgt. Joyner said no.

I requested medical treatment from 12-18-2018 - 12-21-2018 and was finally seen on 12-21-2018 the Black eyes and Swollen Left ear was Documented By the 2 nurses on staff that day.

Also on 12-18-2018 when I was admitted to gray unit what officer I don't know packed my Belongings and MISPlaced my Skullcandy Headphones, my watch, New Pair of New

Balances -
see attached
6B

When did it
happen to
you?

The Assault/torture occurred on 12-18-2018 at around 3:00pm - 4:00pm right around meal time. ~~My property~~ My Property was missing the same day anywhere from after the torture to 5:30 - 6:00pm which is Shift Change.

Where did it
happen to
you?

The incident took place ~~on~~ on Lower Red unit Staff Bathroom. I was originally on upper Red unit E Block cell 27 and was escorted out for false Reasons. my old cell on upper Red (E Block cell 27) to In front of SGT's office

What was
your
injury?

The injuries I sustained was 2 Black eyes for 2 weeks, I could not walk for a week, and my vision and hearing was temporarily malfunctioning. I requested numerous times to see medical staff regarding treatment for my injuries and was denied. I suffer now from PTSD and have recurring nightmares. I also had a swollen and blackened ear (Left) and had trouble hearing correctly out of my left ear. I can not trust staff regarding my safety and documented that on my grievance forms. Also I lost items that was in my possessions and was not packed or filed with a DC-160.

VI. ADMINISTRATIVE PROCEDURES

WARNING: Prisoners must exhaust administrative procedures before filing an action in federal court about prison conditions. 42 U.S.C. § 1997e(a). Your case may be dismissed if you have not exhausted your administrative remedies.

Have you filed a grievance concerning the facts relating to this complaint? ☒ Yes ☐ No

If no, explain why not:

Is the grievance process completed?

☒ Yes ☐ No

If no, explain why not:

VII. RELIEF

State briefly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

Monetary damages, emotional / mental Damages,
Physical damages, also injunctions on prison
as well

IX. PLAINTIFF'S DECLARATION AND WARNING

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending or modifying existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint and provide prison identification number and prison address.

11/11/19
Dated

Luis Antonio Rosado Jr.
Plaintiff's Signature

Luis Antonio Rosado JR.
Printed Name

1087392
Prison Identification #

2568 Moore Rouse Rd. Hookerton Nc 28538
Prison Address City State Zip Code